

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 796

Introduced by Senator Blakeslee

February 18, 2011

An act to add Section 4139 to the Welfare and Institutions Code, relating to state hospitals.

LEGISLATIVE COUNSEL'S DIGEST

SB 796, as amended, Blakeslee. State hospitals: prohibited items: misdemeanor penalty.

Existing law provides for state mental hospitals for the treatment of mentally disordered persons. Existing law places these hospitals ~~are~~ under the jurisdiction of the State Department of Mental Health, and authorizes the department to adopt uniform rules and regulations regarding the conduct and management of these facilities, including prohibiting patients from possessing certain items.

This bill would make the possession with the intent to deliver, or delivery, to a patient in a state hospital ~~any item that has specified items, if they have~~ been prohibited for possession by a patient either by statute or by regulation a misdemeanor, punishable by a fine not to exceed \$5,000 ~~\$1,000~~ for each item. The bill would also require the confiscation from a visitor of an item prohibited for possession by a patient if discovered upon being searched or subjected to a metal detector and would require, unless the item is held as evidence, the return of the item the same day. *By creating a new crime, this bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4139 is added to the Welfare and
2 Institutions Code, to read:

3 4139. (a) Except as otherwise authorized by law, or when
4 authorized by the director of the state hospital, and except as
5 provided in subdivision (b), a person who possesses with the intent
6 to deliver, or delivers, to a patient in a state hospital any item *listed*
7 *in paragraphs (1) to (3), inclusive*, that has been prohibited for
8 possession by a patient either by statute or by regulation is guilty
9 of a misdemeanor, punishable by a fine not to exceed ~~five thousand~~
10 ~~dollars (\$5,000)~~ *one thousand dollars (\$1,000)* for each item.

11 (1) *A cellular telephone or other wireless communication device,*
12 *or any component thereof, including, but not limited to, a*
13 *subscriber identity card (SIM card) or memory storage device.*

14 (2) *Tobacco products, if the state hospital has a ban on tobacco*
15 *products.*

16 (3) *Money, in excess of the limitations and restrictions adopted*
17 *by the state hospital.*

18 (b) If a person visiting a patient in a state hospital, upon being
19 searched or subjected to a metal detector, is found to be in
20 possession of an item prohibited for patient possession *pursuant*
21 *to subdivision (a)*, the item shall be subject to confiscation but
22 shall be returned on the same day the person visits the inmate or
23 ward, unless the item is held as evidence in a case where the person
24 is cited for a violation of subdivision (a). If, upon investigation, it
25 is determined that no prosecution will take place, the item shall
26 be returned to the owner at the owner's expense. Notice of this
27 provision shall be posted in all areas where visitors are searched
28 prior to visitation with a patient.

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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